

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

OWEN W. BARNABY,

Plaintiff,

Hon Janet T. Neff.

v.

Case No. 1:14-cv-01279

BRET WITKOWSKI, et al.,

Defendants.

/

REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiff's Motion for Default for Failure to Comply with Fed. R. Civ. P. 12 (Dkt. 4), which was referred to the undersigned by the Honorable Janet T. Neff for report and recommendation under 28 U.S.C. §636(b)(1)(B). A review of the docket shows that summonses for defendants were never issued. On December 12, 2014, the proposed summons received from plaintiff was returned to him because both defendants were listed on one summons. Summonses listing each defendant separately have not been submitted by plaintiff so have not been issued by the court. As defendants have not been properly served, the undersigned recommends that the motion (Dkt. 4) be denied without prejudice as premature.

Date: January 26, 2015

/s/ Ellen S. Carmody  
ELLEN S. CARMODY  
U.S. Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C).

Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).